

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X	
TEAM NEW ZEALAND LIMITED,	:
	:
Plaintiff,	:
	:
v.	:
	:
SOCIÉTÉ NAUTIQUE DE GENÈVE, TEAM	:
ALINGHI, S.A., AC MANAGEMENT, S.A.,	:
and ERNESTO BERTARELLI,	:
	:
Defendants	:
-----X	

Case No. 08-Civ-4215

**DECLARATION OF  
FRED MEYER**

I, **FRED MEYER**, declare as follows:

1. I am a citizen of Germany over the age of 18 and Vice-Commodore of Société Nautique de Genève ("SNG"), a Swiss yacht club represented by Team Alinghi SA ("Alinghi"). I am as well the Chairman of the International 8 m JI Class association. I respectfully submit this affidavit in support of the accompanying Memorandum of Law in Opposition to Plaintiff's Motion to Remand.
2. The 32<sup>nd</sup> America's Cup entailed expenditures of approximately \$240 million. The multi-challenger event contemplated by the Protocol for the 33<sup>rd</sup> America's Cup is anticipated to involve similar levels of expenditure. The 32<sup>nd</sup> America's Cup resulted in net surplus revenue of approximately \$96 million. Of this amount, Team New Zealand Limited ("TNZ") received approximately \$14 million.
3. On March 2, 2003, SNG, through its representative Alinghi, won the 31<sup>st</sup> America's Cup by defeating TNZ. There were nine competitors for the 31<sup>st</sup> America's Cup. On July 3, 2007, in the 32<sup>nd</sup> America's Cup, Alinghi defended its title by again defeating TNZ. Eleven

challengers competed for the 32<sup>nd</sup> America's Cup. SNG is now the holder of the America's Cup and Alinghi is the Defender for the 33<sup>rd</sup> America's Cup.

4. Shortly after the 32<sup>nd</sup> America's Cup, SNG received a challenge from Club Nautico Español de Vela ("CNEV") and negotiated a Protocol with CNEV to govern the 33<sup>rd</sup> America's Cup (the "Protocol"). The Protocol allows other yacht clubs to compete in the 33<sup>rd</sup> America's Cup by submitting a Notice of Entry.

5. On July 20, 2007, SNG initiated proceedings under the arbitration provisions in the 33<sup>rd</sup> Protocol seeking a ruling from the 33<sup>rd</sup> America's Cup Arbitration Panel (the "Panel") as to the validity of CNEV's challenge.

6. The Panel is comprised of Professor Henry Peter, Luis Maria Cazorla Prieto, and Graham McKenzie. Professor Peter served as a member of the 31<sup>st</sup> Cup Panel and the 32<sup>nd</sup> Cup Panel. Mr. McKenzie served as a member of the 32<sup>nd</sup> Cup Panel.

7. On September 7, 2007, the Panel issued its decision concerning the validity of CNEV's challenge under the Deed of Gift for the 33<sup>rd</sup> America's Cup. Following an analysis of the parties' submissions, the Panel ruled that CNEV's challenge was valid.

8. When SNG first challenged for the 31<sup>st</sup> America's Cup, the issue of the validity of its challenge was presented to an arbitration panel under the Protocol for the 31<sup>st</sup> Cup. On December 17, 2000, that panel issued a decision ruling that SNG's challenge was valid. The decision was accompanied by a statement of the reasons for the decision.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge. This Declaration was executed on June 18, 2008 in Geneva, Switzerland.

By: \_\_\_\_\_

Fred Meyer

A handwritten signature in black ink, appearing to read 'Fred Meyer', is written over a horizontal line. The signature is stylized with a large, sweeping initial 'F' and a cursive 'M'.

**CERTIFICATE OF SERVICE**

I, Karli Johnsen, hereby certify under the penalty of perjury that on June 18, 2008 I served a true and correct copy of the attached:

- DEFENDANTS' MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFF'S MOTION TO REMAND
- DECLARATION OF FRED MEYER
- AFFIDAVIT OF BARRY R. OSTRAGER

upon: Philip M. Bowman  
Boies, Schiller & Flexner, LLP  
575 Lexington Avenue, 7<sup>th</sup> Floor  
New York, NY 10022

David Boies  
Boies, Schiller & Flexner, LLP  
333 Main Street  
Armonk, NY 10504

by tendering a true copy of the same in a properly addressed envelope to Federal Express for one-day overnight delivery service.

Dated: New York, New York

June 18, 2008

  
Karli Johnsen